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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of decision: 10<sup>th</sup> February, 2025*  
+ **W.P.(C) 11027/2024 & CM APPL. 45590/2024**  
**SHRI RAKESH KUMAR MANGALA** .....Petitioner

Through: Mr. Tarun Gulati, Sr. Adv. with Mr. Puneet, Mr. Yuvraj Singh, Ms. Shruti Garg, Mr. Chetan Kumar Shukla and Mr. Devansh Gargh, Adv.

versus

**THE COMMISSIONER OF CUSTOMS EXPORT & ORS.** .....Respondents

Through: Mr. Manish Kumar Sr.PC & Mr. Archit Vasudeva Adv. (M: 9899834398)

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AND

+ **W.P.(C) 11028/2024 & CM APPL. 45592/2024**

**M/S STAR INTERNATIONAL & ANR.** .....Petitioners

Through: Mr. Tarun Gulati, Sr. Adv. with Mr. Puneet, Mr. Yuvraj Singh, Ms. Shruti Garg, Mr. Chetan Kumar Shukla and Mr. Devansh Gargh, Adv.

versus

**THE COMMISSIONER OF CUSTOMS & ORS.** .....Respondents

Through: Mr. Harpreet Singh, Senior Standing Counsel alongwith Ms. Suhani Mathur and Mr. Jay Ahuja, Adv. (M: 8383820042)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**  
**JUSTICE DHARMESH SHARMA**

**JUDGMENT**

**Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.



### **Factual Background**

2. The present writ petitions have been filed under Articles 226 and 227 of the Constitution of India seeking, *inter alia*, issuance of an appropriate writ for quashing of the impugned Order-in-Original dated 26<sup>th</sup> March, 2024 and (hereinafter “*impugned Order-in-Original*”) the impugned Show Cause Notice dated 20<sup>th</sup> June, 2012 (hereinafter “*impugned SCN*”) issued by the Respondent No. 1 – Commissioner of Customs, Inland Container Depot (Export), Tughlakabad, New Delhi and Respondent No. 4 – Additional Director General, Directorate of Revenue Intelligence, Delhi Zonal Unit, respectively.

3. The brief facts of the case are that the Directorate of Revenue Intelligence, Delhi Zonal Unit, (hereinafter “*DRI*”), on the basis of intelligence received, suspected misdeclaration and undervaluation in the import of rubber compound, un-vulcanized rubber compound and nylon chords (hereinafter “*subject goods*”) by two entities namely M/s. Y.K. Rubber and M/s Hashmi Imports (P) Ltd. The said entities were believed to be under the actual control of one Mr. Rafique. During the course of investigation, the DRI suspected that Mr. Rafique was also using other firms namely, M/s. Jai Durga, M/s. Star International (*Petitioner No. 1 in W.P.(C) 11028/2024*) and M/s. Laxmi Industries for the import of subject goods. The said firms were believed to have been actually opened and operated by Mr. Rakesh Kumar Mangala (*Petitioner in W.P.(C) 11027/2024*). Mr. Dayanand Baghel (*Petitioner No. 2 in W.P.(C) 11028/2024*) is stated to be the proprietor of the firm - M/s. Star International.

4. The impugned SCN was issued by the DRI, upon completion of its investigation, holding the Petitioners, *inter alia*, jointly and severely liable for



payment of differential duty under Section 28(1) of the Customs Act, 1962. The allegations against the Petitioners in the impugned SCN are reproduced hereinunder for ease of reference:

*“14.2: Various acts of omission on the part of M/s Hashmi Imports, M/s Y.K. Rubber, M/s Star International, M/s Jai Durga and M/s Laxmi Industrial Corporation, have rendered these goods liable for confiscation under Section 111 (m) of the Customs Act, 1962 and they have also concerned themselves in carrying, removing, keeping, purchasing and dealing with the imported goods for which they knew and had reason to believe that they were liable to confiscation. M/s Hashmi Imports, M/s Y.K. Rubber, M/s Star International, M/s Jai Durga and M/s Laxmi Industrial Corporation, have not paid the full duty leviable on the imported goods, as detailed above, by recourse to wilful mis-statement and suppression of facts. Accordingly, M/s Hashmi Imports, M/s Y.K. Rubber, M/s Star International, M/s Jai Durga and M/s Laxmi Industrial Corporation, have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962.*

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*14.5: Shri Rakesh Kumar Mangala, controller of M/s Jai Durga and Star International and proprietor of M/s Laxmi Industrial Corporation admittedly had full knowledge about the under-valuation of the goods imported by Shri Rafique in the firms owned/provided by him to Shri Rafique at the time of their importation. He was also involved in dealing with and sale of such fraudulent goods. Thus, Shri Rakesh Kumar Mangala, has done various acts of omission & commission, as discussed hereinabove, which have rendered the imported goods liable for confiscation under Section 111 (m) of the Customs Act, 1962. He has also concerned himself with removing,*



*keeping, depositing, selling and dealing with the imported goods for which he knew and had reasons to believe that they are liable for confiscation. Accordingly, Shri Rakesh Kumar Mangala is liable for penalty under Section 112 (a) & (b) and Section 114AA of the Customs Act, 1962.*

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*14.9: Shri Dayanand, proprietor of M/s Star International, had full knowledge about the under-valuation of the goods imported by Shri Rafique in his firm. Despite such knowledge Shri Dayanand allowed his firm to be used for such fraudulent imports. Thus, Shri Dayanand, proprietor of M/s Star International has done various acts of omission & commission, as discussed hereinabove, which have rendered the imported goods liable for confiscation under Section 111 (m) of the Customs Act, 1962. He has also concerned himself with removing, keeping, depositing, selling and dealing with the imported goods for which he knew and had reasons to believe that they are liable for confiscation. Accordingly, Shri Dayanand, is liable for penalty under Section 112 (a) & (b) and Section 114AA of the Customs Act, 1962.”*

5. On the basis of the allegations stated in the impugned SCN, the DRI raised various demands against the Petitioners including interest and penalty. The impugned SCN was however not adjudicated for a substantial period of time by the concerned assessing authority.

6. It is the case of the Petitioners that after issuance of the impugned SCN, the Petitioners had made several request with the concerned assessing authority to provide all the ‘relied upon documents’ (hereinafter “RUDs”). However, the Petitioners were not provided with all the RUDs until sometime in March, 2014. In the meantime the concerned assessing authority had fixed time for personal hearing. However, the Petitioners, had sought further time



till all the RUDs were provided to Petitioners. Thereafter, the Petitioners are stated to have filed their respective detailed reply to the impugned SCN. Personal hearing was conducted on 17<sup>th</sup> July, 2014 and 30<sup>th</sup> March, 2015. It is stated that there was no communication from the concerned assessing authority in respect of the impugned SCN for the about five and a half years. A fresh notice for personal hearing was issued on 31<sup>st</sup> January, 2020 by the concerned assessing authority to which the Petitioners have filed their respective replies. Thereafter, again there was no communication in respect of the proceedings *qua* the impugned SCN until 7<sup>th</sup> December, 2022 and personal hearings were conducted on 5<sup>th</sup> April, 2023 and 5<sup>th</sup>/19<sup>th</sup> January, 2024.

7. After almost 12 years since issuing the impugned SCN and about 10 years after filing of the detailed reply to the same, the respective proceedings against the Petitioners were concluded and the impugned Order-in-Original was passed. The relevant findings in respect of the Petitioners are reproduced hereinunder for ease of reference:

*“43. Further I find that M/s Hashmi Imports, M/s Y.K. Rubber, M/s Star International, M/s Jai Durga and M/s Laxmi Industrial Corporation, are also liable to pay interest at the applicable rate, on the duty evaded / not paid as detailed above, from the 1st day of the succeeding month in which duty ought to have been paid till the date of payment of duty, under Section 28 AB of the Customs Act, 1962; that by various acts of omission on the part of M/s Hashmi Imports, M/s Y.K. Rubber, M/s Star International, M/s Jai Durga and M/s Laxmi Industrial Corporation as discussed in the foregoing paras, they have rendered these goods liable for confiscation under Section 111 (m) of the Customs Act, 1962; that they have also concerned themselves in carrying, removing, keeping, purchasing and dealing with the imported goods for which they knew and had reason to believe that they were liable to*



*confiscation; that M/s Hashmi Imports, M/s Y.K. Rubber, M/s Star International, M/s Jai Durga and M/s Laxmi Industrial Corporation have not paid the full duty leviable on the imported goods, as detailed above, by recourse to wilful mis-statement and suppression of facts. Accordingly, I find M/s Hashmi Imports, M/s Y.K. Rubber, M/s Star International, M/s Jai Durga and M/s Laxmi Industrial Corporation, have rendered themselves liable to penalty under Section 114A of the Customs Act, 1962.*

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*46. In respect of Sh. Rakesh Kumar Mangala, controller of M/s Jai Durga and M/s Star International and M/s Laxmi Industrial Corporation I find that he admittedly had full knowledge about the under-valuation of the goods imported by Rafique in these firms owned/provided by him to Rafique at the time of their importation; that he was also involved in dealing with and sale of such fraudulent goods; that he has done various acts of omission & commission, as discussed herein above, which have rendered the imported goods liable for confiscation under Section 111 (m) of the Customs Act, 1962; he has also concerned himself with removing, keeping, depositing, selling and dealing with the imported goods for which he knew and had reasons to believe that they are liable for confiscation. Accordingly, I find Sh. Rakesh Kumar Mangala liable for penalty under section 112 (a) & (b) and Section 114 AA of the Customs Act, 1962.*

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*50. Further I find that Sh. Dayanand, proprietor of M/s Star International, had full knowledge about the under-valuation of the goods imported by Rafique in his firm; that despite such knowledge he allowed his firm to be used for such fraudulent imports. Thus, I find that Sh. Dayanand has done various acts of omission & commission, as*



*discussed hereinabove, which have rendered the imported goods liable for confiscation under Section 111 (m) of the Customs Act, 1962; that he has also concerned himself with removing, keeping, depositing, selling and dealing with the imported goods for which he knew and had reasons to believe that they are liable for confiscation. Accordingly, I find Sh. Dayanand liable for penalty under Section 112 (a) 8s (b) and Section 114AA of the Customs Act, 1962.”*

8. The Petitioners being aggrieved by the aforesaid impugned SCN and Order-in-Original have preferred the present petitions.

9. It is the case of the Respondents that, multiple opportunities of personal hearing were offered to the Petitioners, however, the representatives of the respective Petitioners merely delayed the proceedings by requesting for additional documents. It is stated that in the meantime, the decision of the Coordinate Bench of this Court in ***Mangli Impex Ltd. v. Union of India & Ors. [2016:DHC:3435-DB]*** was rendered on 3<sup>rd</sup> May, 2016 due to which the impugned SCN was transferred to the Call Book. Thereafter, in view of the Circular dated 26<sup>th</sup> April, 2016 issued by the Central Board of Indirect Taxes & Customs (hereinafter “CBIC”) and letter dated 15<sup>th</sup> April, 2019 issued by the Chief Commissioner, Delhi Zone, the impugned SCN was taken out of the Call Book. The adjudication proceedings were initiated and personal hearing was fixed on 11<sup>th</sup> February, 2020, however, none appeared on behalf of the respective Petitioners. Thereafter, pursuant to the judgment of the Supreme Court in ***M/s Canon India Private Limited v. Commissioner of Customs, Civil Appeal No. 1827 Of 2018*** read with the instructions dated 17<sup>th</sup> March, 2021 issued by the CBIC, the impugned SCN was again transferred to the Call Book. The impugned SCN was again taken out of the Call Book sometime in



January, 2023 and hearings were offered on several dates and subsequently the impugned Order-in-Original was passed.

10. It is stated by the Petitioners that under Section 28(9) of the Customs Act, 1962 (hereinafter “*the Act*”) there is a specific time-period fixed for the purpose of adjudication of show-cause notices and determination of amount of duty or interest. The period specified in the said provision is six months and a maximum period of one year. Section 28(9) of the Act reads as under:

**Section 28(9) of the Customs Act, as in force prior to 29th March 2018 read as under:**

***“28. Recovery of [duties not levied or not paid or short-levied or short-paid] or erroneously refunded.***

xxx

xxxx

xxxx

*(9) The proper officer shall determine the amount of duty or interest under sub-section (8),—*

*(a) within six months from the date of notice, [where it is possible to do so], in respect of case falling under clause (a) of sub- section (1);*

*(b) within one year from the date of notice, [where it is possible to do so] in respect of cases falling under sub-section (4):”*

**Section 28(9) and 9(A) of the Customs Act, 1962 pursuant to amendment reads as under:**

***“28. Recovery of [duties not levied or not paid or short-levied or short-paid] or erroneously refunded.***

xxx

xxx

*(9) The proper officer shall determine the amount of duty or interest under sub-section (8),—*

*(a) within six months from the date of notice, [xxx], in respect of case falling under clause (a) of sub- section (1);*

*(b) within one year from the date of notice, [xxx] in*



*respect of cases falling under sub-section (4):*  
*[PROVIDED that where the proper officer fails to so determine within the specified period, any officer senior in rank to the proper officer may, having regard to the circumstances under which the proper officer was prevented from determining the amount of duty or interest under sub-section (8), extend the period specified in clause (a) to a further period of six months and the period specified in clause (b) to a further period of one year: PROVIDED FURTHER that where the proper officer fails to determine within such extended period, such proceeding shall be deemed to have concluded as if no notice had been issued.]*

*[(9A) Notwithstanding anything contained in sub-section (9), where the proper officer is unable to determine the amount of duty or interest under sub-section (8) for the reason that—*

- (a) an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or*
- b) an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or*
- (c) the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or*
- (d) the Settlement Commission has admitted an application made by the person concerned, the proper officer shall inform the person concerned the reason for non-determination of the amount of duty or interest under sub-section (8) and in such case, the time specified in subsection (9) shall apply not from the date of notice, but from the date when such reason ceases to exist.]... ”*

11. It is argued on behalf of the Petitioners that substantial delay of almost twelve years in adjudication of the show-cause notice cannot be justified by relying upon the phrase “*where it is possible to do so*” as contained in Section



28(9) of the Act. Ld. Sr. Counsel for the Petitioners relies upon a number of decisions passed by this Court where the aforesaid provision has been interpreted including the decision in *Swatch Group India Pvt. Ltd. v. Union of India & Ors.* 2023 SCC OnLine Del 4938, and *Gala International Pvt. Ltd. v. Additional Director General, Directorate of Revenue Intelligence, Delhi and Ors.* 2023 SCC OnLine Del 6073.

12. Ld. Sr. Counsel for the Petitioners submits that this phrase - “where it is possible to do so” has been omitted after the amendment and post the omission, the window which existed for delay in adjudication after the issuance of show cause notice does not exist.

13. Ld. Sr. Counsel for the Petitioners has also relied upon the following judgments:

- i. *State of Punjab & Ors. v. Shreyans Industries Ltd.*, (2016) SCC769.
- ii. *Shri Ram Agro Chemicals Pvt. Ltd. v. Union of India & Ors.*, 2019 SCC OnLine P&H 4918.
- iii. *Vijay Enterprises & Anr. vs. The Principal Commissioner of Customs & Anr.* (2025:DHC:265-DB).

**Findings & Analysis:**

14. Heard.

15. The Court has considered the matter. The main ground on which the impugned SCN and the impugned Order-in-Original are challenged is that the adjudication of the said SCN is beyond the limitation period under Section 28 of the Act. The issue raised in the petition is no longer *res-integra*. Section 28(9) of the Act, unamended and amended, have been considered in detail by the Coordinate Benches of this Court in *Swatch Group India Pvt. Ltd.* (*supra*) as also *M/s Vos Technologies India Pvt. Ltd. v. The Principle Additional*



**Director General & Anr., 2024 SCC OnLine Del 8756** . All the issues which have been raised by the Respondents now stand adjudicated. The relevant observations in the said judgments are set out below:

**Swatch Group India Pvt. Ltd. v. Union of India & Ors. 2023 SCC OnLine Del 4938**

“43. We have perused the documents and letters produced by the Department as referred above. It is seen that for a period of almost three years, various letters were exchanged. The matter was fixed for personal hearing on more than five occasions. No reason has been provided as to why the hearings were not concluded on the said dates and the duties payable, if any, were not determined.

44. We have also perused the instruction dated 17.03.2021 issued to the Principal Additional Director General, Directorate General of Intelligence (DRI). In terms thereof, a decision was taken by the Board to keep the show cause notices referred therein pending. It is significant to note that the instruction categorically mentions about a show cause notice dated 19.03.2019 and that in terms of the judgment passed by the Apex Court in **Canon India Private Limited v. Commissioner of Customs** (supra), the proceedings in the case have become invalid. It was mentioned that since the notice was dated 19.03.2019, it would get barred by limitation on 18.03.2021 and be kept pending till the decisions is taken by the Board. The said instructions appear to have been issued to extend the period in terms of Section 28(9A) of the Customs Act. In terms thereof, if the proper officer is unable to determine the amount of the duty for the reason of a specific direction being issued by the Board for keeping the matter pending, then the time specified in Sub-section (9) shall apply not from the date of notice but from the date when such reason ceased to exist.

45. It is the case of the Revenue that the amended



provision of Section 28 of the Customs Act is not applicable in the present case for the reason that the impugned SCN was issued prior to the Finance Act, 2018, coming into force. Therefore, in our opinion the benefit of extension of limitation as provided under Section 28(9A) of the Customs Act would be applicable only in those cases where the show cause notices have been issued after the enactment of the Finance Act, 2018 since even as per the Revenue the notice issued prior to coming into effect of Finance Act, 2018 would be governed by the unamended provisions.

46. In our view, there is no material to show that it was not possible for the proper Officer to determine the amount of duty within the prescribed period. The mention of the words, “where it is not possible to do so”, in our opinion, does not enable the Department to defer the determination of the notices for an indeterminate period of time. The legislature in its wisdom has provided a specific period for the authority to discharge its functions. The indifference of the concerned officer to complete the adjudication within the time period as mandated, cannot be condoned to the detriment of the assessee. Such indifference is not only detrimental to the interest of the taxpayer but also to the exchequer.

47. In the absence of any ground that it was not possible for the officer to determine the amount of duty within the prescribed period, the impugned SCN has lapsed and cannot be adjudicated.”

**M/s Vos Technologies India Pvt. Ltd. v. The Principal Additional Director  
General & Anr., 2024 SCC OnLine Del 8756**

“85. The position which thus emerges from the aforesaid discussion and a review of the legal precedents is that the respondents are bound and obliged in law to endeavour to conclude adjudication with due expedition. Matters which have the potential of casting financial liabilities or penal consequences



*cannot be kept pending for years and decades together. A statute enabling an authority to conclude proceedings within a stipulated period of time “where it is possible to do so” cannot be countenanced as a license to keep matters unresolved for years. The flexibility which the statute confers is not liable to be construed as sanctioning lethargy or indolence. Ultimately it is incumbent upon the authority to establish that it was genuinely hindered and impeded in resolving the dispute with reasonable speed and dispatch. A statutory authority when faced with such a challenge would be obligated to prove that it was either impracticable to proceed or it was constricted by factors beyond its control which prevented it from moving with reasonable expedition. This principle would apply equally to cases falling either under the Customs Act, the 1994 Act or the CGST Act.”*

16. The record also shows that there are several other orders/judgments have been passed by various authorities following the same reasoning and rationale, including the following decisions:

- *Nanu Ram Goyal v. Commissioner of CGST and Central Excise, Delhi, [(2023) 6 Centax 148 (Del.)]*
- *Gala International Pvt. Ltd. v. Additional Director General, Directorate of Revenue Intelligence, Delhi and Ors, 2023 SCC OnLine Del 6073*
- *Parle International Limited v. Union of India & Ors. [MANUIMHI196S12020]*
- *Union of India vs. ATA Freight Line (I) Pvt. Ltd. [Supreme Court Order dated 10.02.2023- SLP (Civil) Diary No. 828/2023];*
- *Sushitex Exports India Ltd. And Ors. Vs. The Union of India and Anr. [2022-TIOL-123-HC-MUM-CUS]*
- *Sidhi Vinayak Syntex Pvt. Ltd. v. Union of India [2017 (352) E.L.T. 455 (Guj.)]*
- *Shree Shakambari Silk Mills vs. Union of India [2018 (13) G.S.T.L. 279 (Guj.)]*



In all of these cases, the Court has examined the facts and has also considered as to whether the placing of a matter in the call book, for whatever reasons, would justify non-adjudication of the notice within a reasonable period. The opinion has been unanimous of the Coordinate Benches of this Court, that placing of the matter on the call book and taking it up after several years would not be permissible.

17. Coming to the facts of this case, the impugned SCN dates back to 20th June, 2012. The Petitioners had made several requests for providing all the RUDs with the concerned assessing authority. The personal hearing was scheduled on several dates between July, 2012 and March, 2015. Thereafter, the Petitioners are stated to have filed their respective detailed replies to the impugned SCN. Personal hearing was conducted on 17<sup>th</sup> July, 2014 and 30<sup>th</sup> March, 2015. Despite the repeated personal hearings scheduled and conducted by the concerned adjudicating officer, the impugned SCN was not adjudicated between 2012 and 2015. It is noted that the *Mangli Impex (supra)* decision came only on 3rd May, 2016 and the matter has been placed in the Call Book only thereafter. The impugned SCN was then taken out of the Call Book sometime in 2019 pursuant to the letter dated 15<sup>th</sup> April, 2019 issued by the Chief Commissioner, Delhi Zone. The adjudication proceedings were initiated and personal hearing was fixed on 11<sup>th</sup> February, 2020, however, none appeared on behalf of the respective Petitioners. Further, in view of the judgment of the Supreme Court in *M/s Canon India (supra)*, the impugned SCN was again transferred to the Call Book and taken out from the Call Book sometime in 2023.

18. The Customs Department has argued that the Petitioners were granted repeated opportunities for personal hearing, however, the Petitioners delayed



the adjudication of the present matter by requesting for additional documents. As per the Customs Department, the delay in adjudication of the present matter is not due to any inaction on part of the assessing authority. The continued insistence of the Petitioners for additional documents coupled with the fact that the matters was put in the Call Book for long period has resulted in the delay which is beyond the control of the assessing authority. The relevant paragraphs from the counter-affidavit of the Respondents is extracted hereinbelow for ease of reference:

*“(i) With regard to the contention of petitioner regarding delay in adjudication, it is evident from synopsis that delay in adjudication was not due to any inaction on part of the adjudicating authority. **It is seen from the records of personal hearing that the case was not pending due to any inaction on part of the department but was pending due to legal processes and insistence from the petitioner for supply of certain additional documents.** It is a fact on record that DRI had sent all the RUDs to the noticees through email, however whenever hearing was fixed the noticees took the plea of non-receipt of the documents. Between 2012-2015, the case was posted for hearing 11 times which clearly shows that there was no fault on part of the adjudicating authority. **During 2015-2020, the case was transferred call book on valid grounds as power of DRI for issue of SCN was under challenge. Once the issue was settled, the case taken out from call book and posted for hearing.** It is evident that after 2020 the noticees has sought adjournment on their own. It can be seen from the case records that regular personal hearings have been granted to the petitioner; however, at each personal the representative of the petitioner kept insisting for supply of additional documents, whereas, all documents have been supplied to the petitioner. When the petitioner sought to adjourn the case on one or another ground and kept the matter lingering; the "allegation of the petitioner that*



*there has been a gross delay in deciding the case is not sustainable.”*

19. A perusal of the above facts would show that the impugned SCN, which was issued way back in 2012, due to repeated placing in the call book has not been adjudicated for so long. Repeated placing and removing from the call book is not a valid justification for non-adjudication of the impugned SCN for about 15 years. Moreover, the gaps between the said periods is also inexplicable. Hearing notices have been given to the Petitioners but there is no reason for non-adjudication of the impugned SCN for long period. Further, the Co-ordinate Bench of this Court in *Vos Technologies (supra)* has rejected the argument of the Customs Department that the delay in adjudication occurred solely due to the repeated request from the assessee for additional documents. The relevant paragraph from the said judgement is extracted hereunder:

*“36. A stark example of a failure to conclude the adjudicatory process with expedition is represented by W.P.(C) 5896/2024. Proceedings in this case commenced pursuant to the issuance of a SCN on 23 December 2006 and saw the passing of a final order on 08 February 2024. According to the respondents, although approximately 80 dates of personal hearing are stated to have been fixed between 2008 to 2023, the noticees regularly sought adjournment on one pretext or another and failed to appear and participate in the hearings. **However, we find that in this particular case, although the proceedings stood transferred to the call book on only one occasion, the respondents do not proffer any explanation as to why, and if they were of the opinion that the noticees were deliberately delaying the conclusion of proceedings, they did not proceed ex parte.**”*



20. Thus, the present case is fully covered by the decisions of the Coordinate Bench of this Court, including the recent decision of this Court in *Shri Balaji Enterprises v. Additional Director General New Delhi & Ors.*, *W.P.(C) 11207/2023 (2024:DHC:9889-DB)* and *Vijay Enterprises (supra)*.

21. Thus, following the decisions discussed above, the impugned SCN dated 20<sup>th</sup> June, 2012, deserves to be quashed and is accordingly set aside.

22. Considering that the impugned SCN which forms the basis for passing of the impugned Order-in-Original dated 26<sup>th</sup> March, 2024 itself has been set aside, the said impugned Order-in-Original cannot be sustained and would not survive in terms of the settled principles of law. Thus, the impugned Order-in-Original also deserves to be quashed and is accordingly set aside.

23. Ordered accordingly.

24. The present petitions are allowed and disposed of in the aforesaid terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH, J**

**DHARMESH SHARMA, J**

**FEBRUARY 10, 2025**

*gs/ms*

*(corrected and released on 18<sup>th</sup> February, 2025)*